

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

NHAN TRAN, Individually and on Behalf
of Employees Similarly Situated, §
§

Plaintiff,

VS.

CIVIL ACTION NO. H-08-3650

TRAN THAI, doing business as Nails of America, *et al.*,

Defendants.

ORDER

The plaintiff's motion for conditional certification is pending. (Docket Entry Nos. 31, 32).

On November 11, 2009, this court ordered the parties to conduct discovery and file supplemental briefs on the issue of whether the plaintiff was an employee or an independent contractor of the defendants. (Docket Entry No. 37). This issue must be decided to rule on the motion for conditional certification. The parties did not file supplemental briefs. This court ordered the parties to file status reports on that issue. (Docket Entry No. 39). The parties did so on February 12, 2010. (Docket Entry Nos. 40, 41). These status reports showed that the parties were still conducting discovery on the independent contractor issue. On May 15, 2010, this court held a discovery hearing to resolve disputes over whether the plaintiff was required to answer certain deposition questions and produce his income tax returns. (Docket Entry No. 47). The discovery disputes related to the independent contractor issue as well as other issues relevant to conditional certification. The file reflects no activity since that date.

The parties have not provided this court with a sufficient record on which to decide the motion for conditional certification. The motion is denied, without prejudice. A status conference is set for **July 15, 2010, at 8:30 a.m.**, in Courtroom 11-B.

SIGNED on June 30, 2010, at Houston, Texas.


Lee H. Rosenthal
United States District Judge